

REMARKS

Upon entry of the above amendments, this application will contain claims 3-23, and 44-57 pending and under consideration. Claims 32-41, 43, 64, and 55 were withdrawn from consideration by the Examiner. Claims 24-31 were previously canceled. For the reasons discussed more fully below, it is believed that this application is patentable. Therefore, reconsideration leading to withdrawal of all the rejections and allowance of this application is requested.

Amendments to the Specification

The paragraph beginning on line 13 on page 10 has been replaced to correct a typographical error on line 19, by replacing the word "radiopaquic" with the word --radiopaque--

The paragraph bridging pages 14 and 15 has been replaced to correct a typographical error on line 3, page 15 by replacing the word "ore" with the word --or--.

It is believed that no new matter is entered as a result of these amendments.

Rejections under 35 USC §102

Claims 1, 3-7, 12, 22, and 23 were rejected under 35 USC §102(b) over Wall (US 4,502,1610). Claim 1 has been canceled; and claims 3-7, 12, 22, and 23 have been amended to depend either directly or indirectly from claim 44. (Claim 44 is discussed below.) Consequently, these rejections are moot.

Claims 1-8, 10-12, 15-20, and 22-23 were rejected under 35 USC §102(b) over Kalnberz et al. (US 4,089,071). Claim 1 has been canceled, and claims 2-8, 10-12, 15-20, and 22-23 have been amended to depend either directly or indirectly from claim 44. Consequently, these rejections are also moot.

Claims 42, 44, 45, 50-53, 56, and 57 were rejected under 35 USC §102(e) over Henderson et al.(US 6,066,175.)

Claim 42 has been amended to recite that the implant comprises "two or more reinforcing elements extending across a portion of the network adjacent said junctures". Support of the amendment can be found in the application on page 13, lines 7-16, and in Figs. 5-8 among other locations in the application. Henderson et al. does not disclose or suggest the inclusion of reinforcing elements as presently claims.

In the office action it was noted that the screws 11 were considered to be "elongate members or rods" or "reinforcing members". The Applicants respectfully disagree with this interpretation of the term screws. Screws are fasteners. In Henderson et al., the screws 11 are illustrated and described for holding the two hollow members in place. (Henderson et al., col. 6, lines 15-20.) Furthermore, the screws of Henderson et al. do not extend across a portion of the network adjacent the junctures [of the metallic fibers] as presently claimed. The present application also provides for screws -in addition to the reinforcing members recited in the claims. (See the present application on pages 11 line 23 through page 12, line 4. Additionally, the implants of the present invention include holes or apertures through which the bone screws can extend and into bone tissue. (See Figs. 3-6.) It is believed that Henderson et al. does not disclose or make obvious an orthopedic implant as presently claimed including reinforcing members. Consequently, it is believed that the claimed invention is patentable distinct over Henderson et al. Withdrawal of the rejection is respectfully requested.

Claim 44 has been amended similarly to claim 42 to recite that the implant includes a two or more reinforcing elements. As noted above, Henderson et al. does not disclose or make obvious an implant that includes reinforcing elements as recited in claim 44. Withdrawal of the rejection of claim 44 is requested.

Claim 45 has been amended to recite that the orthopedic implant comprises an interconnecting network of metallic fibers, said interconnecting network bounded by a reinforcing band, and one or more reinforcing elements secured to said network of metallic fibers. Henderson et al. does not discuss an orthopedic implant that includes network of metallic fibers and both a reinforcing band bounding the network and one or more reinforcing elements. Consequently, it is believe that claim 45 is patentably distinct from Henderson et al. Claim 50 depends from claim 45. Withdrawal of the rejections over claims 45 and 50 is respectfully requested.

Claim 51 has been amended to recite that the implant includes one or more reinforcing elements secured to said network of metallic fibers and one or more bone fasteners extending through the network of metallic fibers. As noted above, Henderson et al. does not include both the reinforcing elements and the bone fasteners or screws. Claims 52, 53, 56, and 57 depend from claim 51. Withdrawal of the rejections over claim 51-53, 56, and 57 is requested.

Rejections under 35 USC §103

Claims 2, 14, 42, 44, 46, 49, 50-53, 56, and 57 were rejected under 35 USC §103(a) over Wall in view of Frey et al. (US 4,955,911). Claim 2 has been canceled. Claim 14 has been amended to depend from claim 44.

This rejection is traversed. The Applicants respectfully disagree with the characterization of the screws as illustrated with the Wall implant as "reinforcing members". As noted above for the rejection of claim 42 over Henderson et al., it is maintained that screws are fasteners. The screws in Walls are illustrated and described for fastening the prosthetic meniscus 10 (or 20) to bone. (Walls, col. 4, lines 12-14; and col. 5, lines 47-53.)

Independent claims 42, 44, and 51 are directed to an implant that includes two or more reinforcing elements. Claim 45 is directed toward a method of treating a bone defect by inserting an orthopedic implant that includes two or more reinforcing elements. Wall does not disclose or describe an implant as presently claimed including the two or more reinforcing elements.

Frey et al. also does not disclose an implant that includes two or more reinforcing elements as presently claimed. Therefore, Frey et al. does not make up for the deficiencies of Wall.

Claims 44 and 45 recite that the implant includes both a reinforcing band and two or more reinforcing elements. Neither Wall nor Frey et al. disclose an implant that includes both a reinforcing band and two or more reinforcing elements.

Claim 51 has been amended to recite that the implant includes both a one or more reinforcing elements and one or more bone fasteners directed to an implant that includes both a reinforcing and two or more reinforcing elements. As noted immediately above, neither Wall nor Frey et al. disclose an implant that includes both a reinforcing band and two or more reinforcing elements.

Claim 9 was rejected over Kalnberz et al. in view of Mulhauser et al. (US 6,267,772), and claim 21 was rejected over Kalnberz et al. Claims 9 and 21 have been amended to depend from claim 42. Claim 42, as noted, above recites that the implant includes both a reinforcing band and reinforcing elements. Neither Kalnberz et al. nor Mulhauser et al. considered alone or in combination disclose or fairly suggest an implant as presently claimed in claim 9 and 21.

Consequently, neither Wall and or Frey et al. considered either singly or in combination disclose or make obvious the claimed invention. Withdrawal of the rejections over claims 42 and 44 and over claims 45, 51-53, 56, and 57, which depend from claim 44 is requested.

Conclusion

In view of the foregoing remarks, the Applicants respectfully submit that the cited references, either singly, or in combination, do not disclose, or make obvious the claimed invention. Accordingly, reconsideration leading to withdraw of all the rejections under 35 U.S.C. §§112, 102, and 103 and passage of this application to issuance are respectfully requested. Additionally, the Examiner is invited to telephone the undersigned attorney if there are any questions about this submission or other matters, which may be addressed in that fashion.

Respectfully submitted,

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